IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2007

Coram :

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

AND

THE HONOURABLE MR.JUSTICE P.P.S.JANARTHANA RAJA

Tax Case (Appeal) No.435 of 2007

The Commissioner of Income-tax,
Chennai-1. ..Appellant/Respondent

Vs

M/s.George Oakes Ltd.,
43, Greams Road,
P.O. Box 4518,
Chennai-600 006. ..Respondent/Appellant

Appeal under Section 260A of the Income-tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Bench "A", Chennai in I.T.A. No.2966/Mds/04 dated 01.09.2006 for the assessment year 2001-2002. against the order of the Commissioner of Income Tax (Appeals) III Chennnai, dated 20/10/04 for the Assessment year 2001-2002 in ITA No.100/2004-05/A111 against the order of the Deputy Commissioner of Income Tax Company circle II (2) Chennai 34 dated 31.3.2004 and made in PAN GIR No.AAACG 1659G respectively.

For Appellant : Mr.J.Naresh Kumar,
Standing Counsel for
Income-tax Department

JUDGMENT

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(Judgment of the Court was delivered by
P.P.S.Janarthana Raja, J.)

This appeal is filed under Section 260A of the Income Tax Act, 1961 by the Revenue, against the order of the Income Tax Appellate Tribunal, Bench "A", Chennai in I.T.A. No.2966/Mds/04 dated 01.09.2006 raising the following substantial question of law:-

> Whether on the facts and circumstances of the case, the Tribunal was right in holding that the assessee was entitled to value its opening

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stock in one way and the closing stock in another, during the relevant year when Accounting Standard 2 had come into effect in the earlier year itself?

2. The facts leading to the above substantial question of law are as under:

The assessee is a Company. The relevant assessment year is 2001-2002 and the corresponding accounting year ended on 31.03.2001. The original Return of income was filed on 30.10.2001 declaring total income at Rs.1,27,00,922/-. Later, the assessee filed revised Return declaring total income at Rs.1,19,74,004/- on 27.11.2001. The Assessing Officer noted that the assessee made changes in the method of valuation of stock. The Assessing Officer completed the assessment under Section 143(3) of the Income-tax Act ("Act" in short). While completing the assessment, the Assessing Officer made an addition of Rs.19,64,000/- representing the reduction of profit due to the change in valuation of stock. Aggrieved by the order, the assessee filed an appeal to the Commissioner of Income-tax (Appeals). The C.I.T.(A) dismissed the appeal and confirmed the order of the Assessing Officer. Aggrieved, the assessee filed an appeal to the Income-tax Appellate Tribunal ("Tribunal" in short). The Tribunal allowed the appeal filed by the assessee on the ground that the change of accounting method is bona fide one and relied on this Court judgment reported in 149 ITR 759 in the case of C.I.T. Vs. Carborandum Universal Ltd. Hence the present appeal is filed by the Revenue.

3. Learned Standing Counsel appearing for the Revenue submitted that the assessee has taken into account only the change in valuation of closing stock for the year by following the Accounting Standard AS-2. The opening stock however, remains undisturbed. It is also further submitted that because of the valuation of opening and closing stock by different methods, there was a consequential reduction of total income declared for the year and hence the Assessing Officer is right in his opinion that the amount of Rs.19.64 lakhs representing reduction of profit was includible in the total income of the assessee.

4. Heard the counsel. The Institute of Chartered Accountant of India by its Accounting Standard AS 2 (Valuation of Inventory), has prescribed the standard for valuation of inventory. According to this standard, the inventory has to be valued at purchase cost price less commission and discount on purchase (if any) and the commission and discount on purchase in respect of the goods sold should be adjusted against cost of goods sold. Being compulsory the company has adopted the Accounting Standard AS-2 as per the guidelines prescribed by the Institute of Chartered Accountant of India. In this case there is a specific finding that the change in accounting method has not been found to

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have been made with a mala fide intention. Such a change in method of accounting is bona fide and the same is made mandatory by the Institute of Chartered Accountant of India to be followed in the preparation of financial accounts. Under such circumstances, in the year of change, some discrepancy is bound to happen in the profitability of the company as compared to previous year. However, in succeeding years, there will not be any discrepancy on this account. When the change of accounting method is bona fide and also the same is recognised in accounting principle, the resultant variation in income cannot be forced to be taxed upon the assessee. This Court in the case of Commissioner of Income-tax, Tamil Nadu Vs. Carborandum Universal Ltd., reported in 149 ITR 759, considered the scope of change of method of accounting and held as follows:-

> "Therefore, in view of the findings of the Tribunal that the change of the method is bona fide and is intended to be followed in future, year after year, the change has to be accepted by the Revenue, notwithstanding the fact that during the assessment year which is the first year when the change of method is brought about it has resulted in a prejudice or detriment to the Revenue. So long as the method of valuation adopted by the assessee gets recognition from the practicing acccountants and the commercial world for valuation of stock-in-trade, the adoption of that method could not be questioned by the Revenue unless the adoption of that method is found to be not bona fide or restricted for a particular year."

The Tribunal correctly followed the principles enunciated in the above judgment and came to the correct conclusion. The reasons given by the Tribunal are based on valid materials and evidence. Under these circumstances, we do not find any error or legal infirmity in the order of the Tribunal so as to warrant interference.

5. In view of the foregoing reasons, no substantial question of law arises for consideration of this Court and accordingly the tax case is dismissed. Consequently, M.P.No.1 of 2007 is closed. No costs.

km

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Assistant Registrar,
   Income-tax Appellate Tribunal,
   Rajaji Bhavan, Besant Nagar, Chennai.

2. The Commissioner of Income-tax (Appeals) III,
   Chennai-600 034.

3. The Dy.Commissioner of Income-tax,
   Co. Cir.II(2), Chennai-34.

4. The Commissioner of Income Tax,
   Chennai 1.

+ 1 cc to Mrs. Pushya sitaraman, Advocate SR No. 32689

NSM(CO)
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